

REMARKS

Claims 9-31 are pending in the application. Claim 10 has been canceled and claim 32 has been added, leaving claims 9 and 11-32 for consideration upon entry of the amendment. Applicant respectfully requests reconsideration in view of the amendment and remarks submitted herewith.

Applicant has amended the cross-reference section and Figure 1 as suggested by the Examiner. The Examiner objected to the abstract because of the reference to "article like wafer." That term has been amended. Accordingly, Applicant respectfully requests that the objection be withdrawn.

Claims 9-28 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. Applicant has amended the claims to fix most of the claims.

The Examiner asserts that "being unified" is not clear in claims 9 and 12. Applicant respectfully traverses as "being unified" clearly means to be joined or together. However, even though Applicant believes that the phrase is clear, Applicant has revised "being unified" to "together." Applicant respectfully requests that the rejection be withdrawn.

In addition, as to claims 16, the Examiner asserts that "is unified with the door" is an improper positive recitation of an element that is only inferentially set forth in the preamble as an intended use. Applicant respectfully traverses. The loader is not merely intended use, but rather provides environment for the claim. In addition, the claim requires that the cover is unified (or joined) with the door of the loader and that the cover and the door are adapted to move together. Thus, the limitation is not merely intended use, but provides environment and structural limitation to the container. When reviewing whether a claim is indefinite, the Examiner must look at the claim in its entirety. See MPEP 2173.05(f) and (g). In this case, the limitation is proper and Applicant respectfully requests that the rejection be withdrawn.

As to claim 24, both the loader and the container are positively claimed to form an apparatus. Thus, the Examiner's rejection is improper and Applicant respectfully requests that the rejection be withdrawn.

Claims 16-21 stand rejected under 35 U.S.C. §102(e) as being anticipated by Bonora et al. (U.S. 5,895,191) ("Bonora"). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the * * * claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 16-21 include the following: "A container for receiving and transporting a dust free article therein and to be mounted on a loader, the loader is provided with an opening portion disposed in a low cleanliness room in border location between a high cleanliness room and the low cleanliness room having a lower pressure than the high cleanliness room and a door for opening and closing the opening portion." The Examiner asserts that since the container of Bonora could be used with a loader in a low cleanliness room without modification, Bonora is a proper anticipatory reference. Applicant disagrees. There is nothing in Bonora that teaches how it could be used in a low cleanliness room.

First, Applicant disagrees with the Examiner regarding the characterization of the loader disposed in a low cleanliness room as intended use. The loader and its location provides environment for the claim. In addition, the claims are also limited by the preamble and require that the container be mounted on a loader in a low cleanliness room. The claim requires the container to be mounted on a loader. MPEP 2173.05(g) states that a functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. Accordingly, one skilled in the art would understand the limitation and would understand the environment associated with the container.

Accordingly, because Bonora does not teach or suggest all of the limitations of the claims, Applicant respectfully requests that the rejection be withdrawn.

22-23

Claims ~~16-21~~ stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bonora. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d 1016, 1023 (Fed. Cir. 1996).

First, as explained above, Bonora does not teach or suggest all of the limitation of claims 16-21. In addition, the Examiner's use of Official Notice in this circumstance is improper. MPEP § 2144.03 defines when it is proper to use Official Notice. In particular, the MPEP states "Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known." The MPEP also states "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." The MPEP gives as an example specific knowledge of the art. In this case, the limitations of a structural manner of unifying the cover and the door and the air cleaning device are not capable of instant and unquestionable demonstration as being well-known. Applicant asserts that it is improper to rely on Official Notice for the limitations recited in claims 22 and 23. Accordingly, for at least the foregoing reasons, Applicant respectfully requests that the rejection be withdrawn.

Claims 9, 11-15, 24-29, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bonora in view of Iwai et al. (5,829,939) ("Iwai"). Claims 9, 11-15, 24-29, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mastroianni (US 6,068,668) in view of Iwai et al. (5,829,939) ("Iwai"). All of the claims require that the loader is disposed in a low cleanliness room. The Examiner acknowledges that neither Bonora nor Mastroianni teach that the loader is disposed in a lower cleanliness room. Iwai does not remedy the deficiency of Bonora or Mastroianni. Iwai discloses in Figure 19 and 24 that the main box 212, which corresponds to the

container of the present invention, is contained in the pass box 210. Before a wafer or main box is transferred into the apparatus main body 201, gas in the pass box 210 is exhausted through pipes 224 and 225 to enhance cleanliness equivalent to that of the treatment room. Accordingly, the container is not disposed in a low cleanliness room.

In addition, Applicant has added the limitations of claim 10 to claim 9. The Examiner had rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Bonora or Mastroianni in view of Iwai and further in view of Bonora et al. (U.S. 5,169,272) ("Bonora '272"). That limitation now states: "a gap provided between the opening portion and the door through which air flows out from the high cleanliness room to the lower cleanliness room to prevent dust flowing into the high cleanliness." In addition, the claim also requires that the opening portion is in a wall that separates the low cleanliness room from the high cleanliness room. First, Bonora does not teach or suggest that the opening portion is in a wall. Moreover, Bonora '272 discloses a gap between the port plates 26 and the port door 28, which is connected to the exhaust sink 96 (vacuum pump). Bonora does not disclose the flow of air from the high cleanliness room to the low cleanliness room. The present invention discloses a much simplified construction of the loader, which is not obvious over the cited references.

Applicant has added claim 32. This claim requires that the container is disposed in a low cleanliness room. None of the references teach or suggest that limitation. Accordingly, Applicant respectfully requests that this claim be allowed.

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

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